Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)
	)
Petition of WorldCom, Inc., Pursuant	)
to Section 252(e)(5) of the	)
Communications Act for Expedited	)
Preemption of the Jurisdiction of the	) CC Docket No. 00-218
Virginia State Corporation Commission	)
Regarding Interconnection Disputes	)
with Verizon-Virginia, Inc., and for	)
Expedited Arbitration	)

DIRECT TESTIMONY OF MICHAEL J. LEHMKUHL
(Issue IV-25)

August 17, 2001

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INTRODUCTION

1

Q.   Please state your name and your employer.

A.   My name is Michael J. Lehmkuhl. I am employed by Worldcom, Inc. ("WorldCom") as a Regulatory Specialist for Operator Services. My current business address is 601 South 12th Street, Arlington, Virginia, 22202.

Q.   Briefly describe your background and relevant experience.

A.   I have been with the company for eight months and have worked as an independent contractor with the company for another 5 months. I practiced telecommunications law before various federal agencies including the Federal Communications Commission ("Commission" or "FCC") for approximately 8 of the last ten years in both private practice and as a consultant. I earned a Juris Doctorate and Master of Arts in Mass Communications from Drake University Law School and was a member of the Wisconsin State Bar. I earned my Bachelor's Degree in Journalism from the University of Wisconsin at Madison in 1987. My responsibilities at WorldCom include supporting the business and regulatory efforts of Worldcom through its ISN Services and Solutions Group.

Q.   What is the purpose of your testimony?

A.   The purpose of my testimony is to support MCIm's position regarding full access to Verizon's calling name database ("CNAM"), which is numbered IV-25.

ISSUE IV-25

2   *Should the Interconnection Agreement include detailed provisions regarding the Calling*

3   *Name (CNAM) database which Verizon must make available as an unbundled network*

4   *element? (Attachment III, Sections 13.6 through 13.6.7.5).*

5

6   **Q.   Could you please describe the dispute between the parties?**

7   A.   Yes. It is my understanding that the only dispute in this area between the parties

8   is whether Verizon must allow MCIm "batch" or "full" access to Verizon's entire CNAM

9   database in a bulk, downloadable format. Verizon's limited offering of access on a "per-

10   query" or "per-dip" basis is inconsistent with applicable law. As discussed below, it is

11   MCIm's position that because CNAM is an unbundled network element ("UNE"),

12   nondiscriminatory access to that call-related database under Section 251(c)(3) of the

13   Telecommunications Act of 1996 ("Act") entitles MCIm to the same ready access to the

14   database as Verizon enjoys. 47 U.S.C. § 251(b)(3).

15

16   **Q.   What is CNAM and how does it work?**

17   A.   CNAM is a database used by exchange carriers to offer caller ID services. As an

18   incoming call is routed and terminates at a customer's phone, a query is sent from the

19   terminating switch to a database to retrieve information about the calling party. The

20   information retrieved from the database is then routed over the network so that it is

21   viewable on a subscriber's equipment to identify the caller. The industry standard

22   requires that the information be provided to the subscriber before the second ring cycle.

1 **Q. Does Verizon dispute that the CNAM database is a UNE?**

2 A.   No. Verizon does not dispute that CNAM is an unbundled network element or

3 UNE. See Verizon's Answer Exhibit A at 122. Section 51.319(e)(2)(A) of the FCC's

4 Rules requires that incumbent local exchange carriers provide nondiscriminatory access

5 to all call-related databases as UNEs. 47 C.F.R. §51.319(e)(2)(A). Congress mandated

6 that incumbent local exchange carriers ("ILECs") have a duty to provide any requesting

7 carrier nondiscriminatory access to network elements on an unbundled basis at any

8 technically feasible point on rates, terms, and conditions that are just, reasonable, and

9 nondiscriminatory. An incumbent must provide such UNEs in a manner that allows

10 requesting carriers to combine such elements in order to provide such

11 telecommunications service. 47 USC § 251 (c)(3).

12

13 **Q. What is Verizon's duty with respect to offering CNAM as a UNE?**

14 A.   Pursuant to Section 251(c)(3) of the Act, Verizon's duties with respect to offering

15 CNAM are two-fold. First, Verizon may not restrict MCIm's use of CNAM to provide a

16 telecommunications service. Second, Verizon must provide access on just, reasonable

17 and nondiscriminatory terms.

18

19 **Q. What does "nondiscriminatory" mean with respect to call-related databases?**

20 A.   The "nondiscriminatory" requirement with respect to call-related databases means

21 that Verizon has a duty to provide access to the databases in at least the same manner that

22 Verizon provides it to itself and to other carriers. The FCC has stated repeatedly that any

1   standard that would allow a LEC to provide access to any competitor that is inferior to

2   that enjoyed by the LEC itself is inconsistent with Congress' objective of establishing

3   competition in all telecommunications markets. Local Competition Order ¶¶ 100-105.

4   This means not only that Verizon is obligated to treat all carriers the same, but must

5   provide those carriers with the same access it provides itself in order to level the playing

6   field with respect to providing competing services to customers in Virginia.

7   For instance, MCIm has requested, and Verizon's language would prohibit, the transfer of

8   the CNAM database Verizon uses to MCIm as a "batch" file. This batch file would allow

9   MCIm to use the database in exactly the same readily accessible manner as Verizon

10   enjoys. Verizon cannot claim that because it also dips into its own database, its access is

11   the same as that offered to MCIm. This claim ignores the fact that the database resides in

12   Verizon's own facilities and that it enjoys a level of control and access that MCIm does

13   not.

14

15   **Q.   Why should MCIm be granted full access to all of the data that resides in**

16   **Verizon's CNAM database?**

17   A.   Granting full access to the CNAM database would give MCIm the same control

18   over the database enjoyed by Verizon and allow it to use this UNE to provision any

19   telecommunication service as contemplated under the Act. Giving MCIm the information

20   in a readily accessible format would facilitate the incorporation of the data into MCIm's

21   facilities with no dialing delays. As Verizon is obligated to provide this UNE in a

22   manner that allows MCIm to use it to provision any telecommunication service, allowing

23   batch access would go a long way in making this possible.

1   Additionally, an analogy can be made between access to the CNAM database and

2   another call-related database, the directory assistance listing ("DAL") database. This

3   analogy supports the argument that CNAM should be provided to MCIm in a bulk,

4   downloadable format. With respect to DA databases, this Commission specifically found

5   that "LECs must transfer directory assistance databases in readily accessible electronic,

6   magnetic tape, or other format specified by the requesting LECs, promptly on request."

7   In the Matters of Implementation of the Telecommunications Act of 1996,

8   Telecommunications Carriers' Use of Customer Proprietary Network Information and

9   Other Customer Information, Implementation of the Local Competition Provisions of the

10   Telecommunications Act of 1996, Provision of Directory Listing Information, Third

11   Report and Order in CC Docket No. 96-115, Second Order on Reconsideration in CC

12   Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273 (rel.

13   September 9, 1999) (1999 Directory Listing Order) ¶ 153. The Commission specifically

14   held that LECs may not restrict competitive access to the DA database by restricting

15   access to per-query access only:

16   Although some competing providers may only want per-query access to

17   the providing LEC's directory assistance database, per-query access does

18   not constitute equal access for a competing provider that wants to provide

19   directory assistance from its own platform. With only per-query access to

20   the providing LECs database, new entrants would incur the additional time

21   and expense that would arise from having to take the data from the

22   providing LEC's database on a query-by-query basis then entering the data

23   into its own database in a single transaction. . . . Such extra costs and the

5

1   Q.   Does access to Verizon's CNAM database on a per-query or per-dip basis

2   only increase costs to competitors such as MCIm?

3   A.   From a practical standpoint, requiring MCIm to dip Verizon's database or access

4   the database on a "per query" basis only, rather than access its own database, forces

5   MCIm to incur development costs associated with a complex routing scheme within

6   MCIm's UNE platform to provide quality service to its customers. As Verizon already

7   has its own database, it does not incur the same costs associated with implementing and

8   maintaining this routing scheme.

9   Additionally, just as in the case of directory assistance listings, a competitive

10   carrier may wish to obtain the full database in order to avoid the required dip for each and

11   every query. For some CLECs such as MCIm, the cost of obtaining the full contents of

12   the database and maintaining its own database may be more economical than access that

13   is restricted to a per-dip or per-query basis. Providing the alternative of bulk data

14   provides potential cost savings to CLECs and provides an incentive to Verizon to avoid

15   setting their database query price too high.

16

17   Q.   Does full access to the CNAM database result in increased quality of service

18   to MCIm customers?

19   A.   Yes. Allowing full access to the CNAM database means that MCIm has more

20   control over the quality of the service it offers. For example, CNAM allows the called

21   customer premises equipment, connected to a switching system via a conventional line, to

22   receive a calling party's name and the date and time of the call during the first silent

23   interval in the ringing cycle. This is a very limited time frame within which to determine

7

1   the name associated with the calling number. As the call reaches the terminating switch

2   and a Caller ID request is made, the request must route through the network to reach the

3   database holding the "name" information. MCIm must first determine which LEC owns

4   the number, then route the call out to that LEC and back to make the dip. If the LEC does

5   not have the name, then exception handling procedures must be used to find the name and

6   the result is finally returned to the called party. The time it takes to route the number

7   request to the correct LEC's database to make the dip, return the request, and provide

8   exception handling when the number is not found in the database cannot always be

9   completed within the short ring cycle required. If, however, MCIm maintains its own

10   database, a lengthy step of the process can be eliminated, allowing MCIm to provide

11   service at least as well as Verizon provides for itself.

12

13   **Q.   Does full or batch access to Verizon's CNAM database help to increase**

14   **innovative and competitive offerings?**

15   A.   Yes. Not only does limited access to the CNAM database, such as per-query

16   access only, prevent MCIm from controlling the service quality and management of the

17   database, but such a limitation also restricts MCIm's ability to offer other innovative

18   service offerings that may be provided more efficiently, quickly, and cheaply. Without

19   competition in this regard, Verizon has no incentive to upgrade its CNAM service or the

20   technology that drives it.

1   **Q.**   **Are there other competitive benefits that support full or batch access to**

2   **Verizon's CNAM database?**

3   A.   If MCIm could operate its own database to support services for its end users, it

4   would not be bound by Verizon's restrictions and could develop the capability to offer

5   CNAM database services to other carriers via other process methods that could be more

6   efficient and less costly. For example, it could offer CNAM over TCP/IP rather than on

7   the costly SS7 network. The provisioning of CNAM through TCP/IP also facilitates the

8   development of new services and the integration of this service with emerging voice over

9   Internet applications. Thus, by enjoying superior access to its CNAM data—data that

10   cannot be accessed or used anywhere else except through access to Verizon's database on

11   a per-query basis—Verizon limits MCIm to an inferior service.

12

13   **Q.**   **Have any state commissions found that the ILEC is obligated to provide full**

14   **or batch access to the CNAM database in a downloadable format?**

15   A.   Yes, there are at least two. The state commissions in Michigan and Georgia have

16   ordered that the ILECs must provide the CNAM database in a downloadable format. See

17   In the Matter of the Application of Ameritech Michigan for Approval of Cost Studies and

18   Resolution of Disputed Issues Related to Certain UNE Offerings, Case No. U-12540 at

19   21 (March 2001) and Petition of MCImetro Access Transmission Services, LLC and MCI

20   MCIm Communications, Inc. for Arbitration of Certain Terms and Conditions of

21   Proposed Agreement with BellSouth Telecommunications, Inc. Concerning

22   Interconnection and Resale Under the Telecommunications Act of 1996, Order of

23   Georgia Consumers' Utility Counsel, Docket No. 11901-U at 9 (February 2001).

1   **Q.   Please summarize your testimony.**

2   A.   In summary, because CNAM is a UNE the Act requires Verizon to make this

3   element available in a manner for MCIm to use it to provision any service it wants to

4   consistent with the Act. This database and the information it contains must also be made

5   available to MCIm in the same manner as Verizon makes the information available to

6   itself and other telecommunications carriers. The Commission should find that Verizon

7   cannot act in a discriminatory manner and restrict access to its CNAM database to a per-

8   query or per-dip basis only. Competitors, such as MCIm, need access to the CNAM

9   database in a bulk, downloadable format that allows for efficient competition and

10   improved service quality to customers.

11

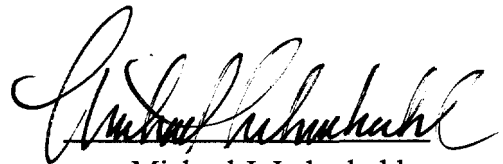12   **Q.   Does this complete your testimony?**

13   A.   Yes.

BEFORE THE
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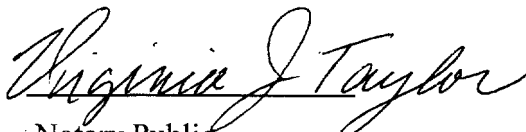|		
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AFFIDAVIT OF MICHAEL J. LEHMKUHL

The undersigned, being of lawful age and duly sworn on oath, certifies the following:

I, Michael J. Lehmkuhl, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Michael J. Lehmkuhl

Subscribed and Sworn to before me this
16 day of August, 2001.

Notary Public

Virginia J. Taylor
NOTARY PUBLIC
Commonwealth of Virginia
My Commission Expires 4/30/05